

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

September 26 and 27, 2006

The meeting was called to order at 9:00 a.m. at the Bureau of Health Licensure and Regulation, 220 Athens Way, Suite 104, Plaza 1 Metrocenter, Nashville, Tennessee 37243 by President Dr. David Cunningham. Other members present were: Drs. George Eckles, Michael Zanolli, Keith Lovelady, Mitchell Mutter, Charles White, Sr., Subhi Ali, Allen Edmonson, Neal Beckford, Mr. Mark Brown, Ms. Mary Johnson and Ms. Irene Wells. Staff present included: Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Board Administrator and Robert Kraemer, Advisory Attorney.

Mr. Jerry Kosten, Rules Coordinator reviewed the provisions of the paragraph concerning the seven year time limit for examinations and a requirement for licenses to bi-annually complete a one (1) hour prescribing practices course. This rule went to rulemaking hearing on September 18, 2006. Mr. Kosten reported there were no comments received concerning the seven year rule and one comment was received concerning the continuing education rule. The Board discussed the availability of prescribing courses and anticipated that more courses would become available when the rule passed. The Board stressed there would be no exceptions granted concerning this rule. Mr. Kosten stated that a roll call vote was needed. Dr. White made a motion to adopt and Dr. Beckford seconded the motion. After a roll call vote, the rule was adopted by unanimous vote. At this point, Dr. Zanolli was appointed chair as Drs. Cunningham, White, Mutter and Mr. Brown were excused to begin to hear the contested case of Curtis Buchheit, MD.

Minutes

Minutes from the July 26 and 27, 2006 meeting were reviewed. Dr. Eckles stated that the minutes needed to reflect that Clarence R. Sanders, MD was present during the presentation of his Order of Compliance. Dr. Eckles made a motion to accept the minutes with amendments as stated and Dr. Ali seconded the motion. The motion carried.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers and Physician Assistants were reviewed. Dr. Beckford made a motion to ratify the approval of licenses for medical doctors and Dr. Ali seconded the motion. The motion carried. Dr. Beckford made a motion to accept the approval of licenses for the medical x-ray operators and Ms. Wells seconded the motion. The motion carried. Dr. Beckford made a motion to accept the approval of licenses for the Athletic Trainers and Ms. Johnson seconded the motion. The motion carried. Dr. Beckford made a motion to accept the ratification of licenses for the Clinical Perfusionists and Dr. Lovelady seconded the motion. The motion carried. Dr. Lovelady made a motion to accept the ratification of licenses for the Acupuncture Committee and Dr. Beckford seconded the motion. The motion carried.

New Applicant Interviews

Richard P. Nero, MD-Dr. Nero is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Nero's application file for the Board. In reviewing Dr. Nero's application, it appeared that he had not practiced since 1994. Dr. Arnold recommended denial. Dr. Edmonson made a motion to accept Dr. Arnold's recommendation for denial and Dr. Beckford seconded the motion. Dr. Nero stated he had not practiced since 2004 not 1994 and stated the application was filled out in error. The Board gave Dr. Nero the option to withdraw his application which he did. Dr. Zanolli suggested that Dr. Nero meet with Dr. Arnold to discuss additional training to refresh his skills, obtaining additional continuing medical education and correcting his application. The motion passed unanimously.

Alan B. Storrow, MD-Dr. Storrow is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Storrow's application for the Board. Dr. Storrow presently works at Vanderbilt in an administrative position. Dr. Storrow has been under contract with the Tennessee Medical Foundation for seven years and Dr. Gray spoke on his behalf. Dr. Storrow's medical license was disciplined in Ohio and a Consent Agreement entered on May, 2006. Dr. Storrow informed the Board that his Ohio license was cleared. Mr. Kraemer informed Dr. Storrow that the National Practitioner Databank and information from the Ohio Board suggest the contrary. After further discussion, the Board gave Dr. Storrow the option to withdraw his application which he did.

Pilar Vargas, MD-Dr. Vargas is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Vargas' application for the Board. Dr. Vargas has not practiced in a clinical setting since 1994. Dr. Vargas informed the Board that she plans to do disability reviews as she has been doing for the Disability Determination Services for the Department of Education in Alabama. Dr. Arnold's recommendation was for Dr. Vargas to enroll in a mini residency program for at least one year and pass the SPEX exam. The Board stated that Dr. Vargas would qualify for an administrative license at this time. Dr. Edmonson made a motion to grant an administrative license to

Dr. Vargas and Dr. Eckles seconded the motion. The motion passed. The Board informed Dr. Vargas that once she fulfills the requirements listed above that she could come back to the Board for a full license.

Alexander Peter Zotos, MD-Dr. Zotos is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Zotos' application for the Board. Dr. Arnold recommended licensure with lifetime advocacy with the Tennessee Medical Foundation and quarterly reports to the Board. Dr. Edmonson made a motion to accept Dr. Arnold's recommendation and Dr. Eckles seconded the motion. The motion passed.

Reinstatement Interviews

Sharon Kay Brandon, MD-Dr. Brandon is applying for reinstatement of her medical license. Dr. Brandon requested to withdraw her reinstatement application and the Board accepted her withdrawal.

George Hagan Jackson, MD-Dr. Jackson is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Jackson's reinstatement application for the Board. Dr. Arnold recommended granting a license conditioned upon Dr. Jackson taking and passing the SPEX exam and maintaining lifetime advocacy with the Tennessee Medical Foundation with quarterly reports to the Board. Dr. Edmonson made a motion to accept Dr. Arnold's recommendations and Dr. Ali seconded the motion. The motion carried.

Barry Craig Ashkinaz, MD-At the request of Dr. Ashkinaz, the Board rescinded their previous action granting him an administrative license. Dr. Ashkinaz will be allowed to withdraw his reinstatement application. Dr. Edmonson made a motion to rescind the previous action and Ms. Johnson seconded the motion. The motion carried.

Ratification of Denial of Licensure

Nancy Leonor Garcia, MD-Dr. Garcia applied for a license to practice medicine in Tennessee. Dr. Arnold informed the Board that Dr. Garcia is outside the seven year rule of the USMLE and recommends denial. Dr. Ali made a motion to accept Dr. Arnold's recommendation of denial and Ms. Johnson seconded the motion. The motion passed unopposed.

Rule Action

Mr. Kosten reviewed the rules regarding revisions to certification and scope of practice for Limited Scope X-Ray Operators. Mr. Kosten informed the Board that the rule would need to go to rulemaking hearing. Dr. Ali made a motion to authorize a rulemaking hearing regarding the revisions and Dr. Beckford seconded the motion. Dr. Lovelady made a motion to leave the rule as written and Dr. Edmonson seconded the motion. Ms. Johnson and Dr. Zanolli opposed. Dr. Edmonson made a motion to send the rule to rulemaking hearing rule 0880-5-.09 of page 4 of the proposal. A second was made by Dr. Lovelady. The motion passed by a majority vote, with Dr. Zanolli voting no.

Discussion

The Board discussed the revisions to the remote service language presently under review at the Attorney General's office. Ms. Johnson made a motion to accept the revision to the language and Dr. Edmonson seconded the motion. Ms. Wells opposed. The motion carried. After a roll call vote, with Ms. Wells opposing, the revisions were adopted by a majority vote.

Dr. Eckles reviewed amendments to the Office Based Surgery rules that he had discussed with Dr. Ali. Mr. Kraemer advised the Board that the work of the office based surgery task force that gave rise to the proposed changes falls under the requirements of the Open Meeting Act. As an official committee of this Board charged with decision making authority, that meeting should have been properly sunshined. The Board took up a discussion of the proposed changes offered by the Tennessee Hospital Association and voted to send those proposals to rulemaking hearing following the motion of Dr. Edmonson. Ms. Johnson seconded the motion and all members voted in the affirmative.

Ms. Otto informed the Board of the report presented by Mr. Joel Herring, President of the Examination Processing Center regarding the Limited Scope Exam Results for January through June, 2006. The report showed four out of six providers were above the 65% pass rate. Ms. Otto informed the Board that Mr. Owen London's X-Ray Instructional Program has done well and has complied with what the Board previously requested of him. Ms. Otto informed the Board that one course provider, Mid. South Institute was well below the required 65% with a pass rate of only 38%. She informed the Board that she would write a letter to the program's director requiring her to explain to the Board her plans to improve her course and consequently her pass rate. That response will be available for the Board at its January 23, 2007 meeting.

Ms. Robbie Bell, Director for Health Related Boards gave a brief update of the meeting for the Controlled Substance Database Monitoring Committee.

Reports

Budget Report

The budget was reviewed by the Board. Ms. Otto stated that the Board continues to have a surplus but they can anticipate certain expenses assigned to them to cover such items as the upgrade to the RBS System and the move of the Health Related Boards. The good news on this front is that the State's Facility Revolving Fund will cover most of these expenses.

Investigation Report

Ms. Denise Moran, Director for Bureau of Investigations reviewed the investigative report for the Board. Ms. Moran informed the Board of the new employees that will be

coming to Investigations and of the new website for consumers to file a complaint.

Ms. Moran acknowledged Ms. Lea Phelps for receiving a federal award for her work cooperating with the Inspector General.

Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed her report for the Board. Ms. Phelps stated that \$60,000 has been collected in civil penalties.

OGC Report

Mr. Robert Kraemer reviewed his report for the Board. Mr. Kraemer reviewed the following rules:

1. Radiologic Assistants and Examinations
2. MPLLC, X-Ray and Reference Letters
3. Office Bases Surgery, Advertising and Supervision
4. Even Year Exam Rule and Prescribing Continuing Education

“Noteworthy” section of the internet

The Board did not designate anything for the “noteworthy” section of the internet.

Disciplinary Action

Agreed Order

Consent Orders

Terrance Dunn, MD-Dr. Dunn was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Dr. Dunn is charged with violating TCA 63-6-2214 (b) (2). Dr. Dunn violated the terms of the Board’s previously issued Consent Order placing him on five (5) years probation for failing to comply with all terms of his contract with the Tennessee Medical Foundation. Dr. Dunn’s previous Consent Order was based on having prescribed for a pain patient without a medical office location and in such a manner as to be detrimental to the patient’s future treatment. The proposed Consent Order states that Dr. Dunn shall surrender his medical license and shall no longer be entitled to practice medicine in Tennessee. Before Dr. Dunn may practice medicine again he must file a new application and meet the then existing qualifications for licensure. Dr. Lovelady made a motion to accept the proposed Consent Order and Dr. Edmonson seconded the motion. The motion passed.

Robert James Pomphrey, MD-Dr. Pomphrey was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order

was handed to the Board for review. Dr. Pomphrey is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214(b) (18). Dr. Pomphrey became involved in an automobile accident that could result in his conviction of a crime. He also suffers from some conditions which make his continued practice of medicine inadvisable without further medical intervention. The proposed Consent Order stated that Dr. Pomphrey's license is suspended from the date of the Order until such time as he petitions and appears before the Board. Dr. Pomphrey must show satisfactory evidence of having successfully attended, participated in and completed residential treatment for the variety of conditions identified by his recent evaluation from Vanderbilt Comprehensive assessment Program. Dr. Pomphrey must provide the Board's Medical Director with all reports from the residential treatment program and a copy of its discharge summary. Dr. Pomphrey must have recovered sufficiently such that all members of the aftercare treatment team unanimously agree that he is safe to return to the practice of medicine. On the date on which the Board issues an Order of Compliance regarding the suspension and lifts that suspension Dr. Pomphrey's license shall be placed on probation for a period of no less than five (5) years. The condition of the probation is that Dr. Pomphrey enters into and complies with a monitoring contract with the Tennessee Medical Foundation for the duration of that probation and that he cause the Foundation to submit quarterly reports of his progress in complying with all aftercare and VCAP evaluation recommendations. Dr. Edmondson and Ms. Wells seconded the motion. The motion passed unopposed.

Mark Robert Wade, MD-Dr. Wade was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order and the 2004 Agreed Order was handed to the Board for review. The 2004 Agreed Order charged Dr. Wade with violating TCA 63-6-214(b) (1), TCA 63-6-214 (b) (2), TCA 63-6-214 (b) (4), TCA 63-6-214 (b) (10), TCA 63-6-214 (b) (12) and TCA 63-6-214(b) (14). The proposed Consent Order charged Dr. Wade with violating TCA 63-6-214(b) (2). Dr. Wade failed to pay the civil penalties or attend the prescribing and record keeping continuing education and the Florida CARE Program as ordered by the Agreed Order entered before the Board in 2004 due to his actions in relation to internet pharmacy prescribing. The proposed Consent Order stated that Dr. Wade's medical license shall be suspended until such time as the Board receives five thousand dollars (\$5,000.00) of the past due balance of the civil penalties previously ordered. Beginning on the first day of the month following the month in which the probation begins, Dr. Wade must submit a five hundred dollar (\$500.00) payment to the Board every month until the remaining balance of the originally ordered twenty-five thousand dollar(\$25,000.00) civil penalty is paid in full. In lieu of attendance at the Florida CARE Program previously ordered, within twelve(12) months of the date probation begins complete an evaluation from Vanderbilt Comprehensive Assessment Program (VCAP) in which a copy must be sent to the Board's Medical Director. In lieu of attendance at the continuing education regarding prescribing and record keeping previously ordered, within twelve (12) months of the date probation begins attend the Vanderbilt Prescribing Course and submit a certification of completion to the Board. Starting January, 2007, regardless of when the probation begins, Dr. Wade must attend and complete forty (40) hours of continuing education every calendar year for the duration of the probation in addition to the hours required by law to be obtained every year. Ms. Johnson made a motion to accept the

proposed Consent Order and Dr. Ali seconded the motion. The motion passed.

Mary Stroud, MD-Dr. Stroud was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Consent Order was handed to the Board for review. Dr. Stroud is charged with violating TCA 63-6-214 (b) (12). Dr. Stroud, for a time period including at least the years 1996 to 2005, prescribed anti-anxiety and stimulant drugs such as Adderall, Dexedrine, Xanax and valium to patients in amounts that exceeded the maximum recommended dose for the patient's diagnosed condition. Dr. Stroud failed to adequately document tests and/or evidence to support diagnosis/treatment of Attention Deficit Disorder in patients. The proposed Consent Order stated that Dr. Stroud shall voluntarily surrender her medical license and Drug Enforcement Administration certificate and pay all costs. Dr. Edmonson made a motion to accept the proposed Consent Order and Dr. Ali seconded the motion. The motion passed.

Laura Grobovsky, MD-Dr. Grobovsky was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Consent Order was handed to the Board for review. Dr. Grobovsky is charged with violating TCA 63-6-214(b) (18) and TCA 63-6-214(b) (20). Dr. Grobovsky's license was disciplined by the Oregon Board on July 14, 2005 for violation of a previous order. Dr. Grobovsky failed to submit to a multidisciplinary evaluation at a health care center approved by the Board's Medical Director. The proposed Consent Order stated that Dr. Grobovsky's medical license be suspended until such time as she appears before the Tennessee Board of Medical Examiners and provides proof sufficient to the Board that her Oregon medical license is out of suspended status and that she is in compliance with the Order of the Oregon Board of Medical Examiners. Upon the lifting of suspension of Dr. Grobovsky's Tennessee medical license shall be on probation concurrent with the probation imposed upon her Oregon medical license, if any. In order to lift the probation, Dr. Grobovsky must appear before the Tennessee Board of Medical Examiners and submit proof sufficient to the Board that her Oregon medical license is unencumbered except for the reprimand issued in the a Oregon Board Order entered on July 14, 2005. Ms. Johnson made a motion to accept the proposed Consent Order and Dr. Edmonson seconded the motion. The motion passed unopposed.

Ralph S. Hobbs, MD-Dr. Hobbs was neither present nor represented by legal counsel. Mr. Thomas Miller represented the State. The proposed Consent Order was handed to the Board for review. Dr. Hobbs is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214(b) (2), TCA 63-6-214 (b) (4), TCA 63-6-214 (b) (12), TCA 63-6-214 (b) (13) and TCA 63-6-214 (b) (14). Dr. Hobbs entered a guilty plea in Federal court, admitting that he had conspired to sign and issue prescriptions for Dilaudid, a scheduled II controlled substance, not in the usual course of medical practice and for other than a legitimate medical purpose. As a result of these actions, the Board revoked Dr. Hobbs' license to practice medicine in 1985. On February 24, 1994, Dr. Hobbs entered into an Agreed Order with the Board admitting negligence in his care of a single patient. On November 18, 1997, the Board lifted the probation and practice restrictions previously imposed upon Dr. Hobbs in 1990. Dr. Hobbs, for a time period including the years 2000

to 2005, failed and/or neglected to perform and/or document performing medically appropriate physical examinations, including diagnostic tests, sufficient to justify the prescribing and/or continued prescribing of narcotic analgesics and other controlled substances to patients. The proposed Consent Order stated that Dr. Hobbs' medical license shall be immediately surrendered. Dr. Ali made a motion to accept the proposed Consent Order and Dr. Lovelady seconded the motion. The motion passed.

Order of Compliance

Jan Mayer, MD-Dr. Mayer was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer gave a brief review of Dr. Mayer's past history. The petition for Order of Compliance was handed to the Board for review. Dr. Mayer addressed the Board and stated he has completed federal probation and plans on working at Cumberland Heights. Dr. Roland Gray, of the Tennessee Medical Foundation spoke on Dr. Mayer's behalf. Dr. Gray stated Dr. Mayer is a recovering alcoholic and would have a lifetime contract with TMF. Dr. Gray informed the Board that Dr. Mayer has maintained his contract since 2003 with no incidents. Dr. Edmonson made motion to lift restrictions contingent upon renewing the TMF contract for five more years. Dr. Eckles seconded the motion. Dr. Ali made an amendment to change "five year contract" to "lifetime contract" and Dr. Edmonson seconded the motion. Dr. Ali made a motion to grant the license as amended and Dr. Eckles seconded the motion. The motion passed unopposed.

Order of Modification

Larry Howard, MD-Dr. Howard was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. The 2005 Consent Order and the proposed modified Consent Order was handed to the Board for review. Dr. Howard was charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214 (b) (12). Dr. Howard was charged with overprescribing. The 2005 Consent Order stated that Dr. Howard's license be placed on suspension for one (1) year, enter into Vanderbilt Comprehensive Assessment Program for Professionals (VCAP) and personally appear before the Board's Medical Director to present evidence and provide a report of his evaluation and assessment from VCAP's treatment recommendation. Dr. Howard must show that he has obtained advocacy from the Tennessee Medical Foundation. The proposed modified Consent Order stated that the suspension of Dr. Howard's license is lifted but his license shall be placed on indefinite probation during which time he may practice medicine under the conditions that Dr. Howard must continue under and comply with all provisions of a monitoring contract with the Tennessee Medical Foundation during the entire period of probation. Dr. Howard must continue with his treatment with a neurologist, psychiatrist and psychologist regarding treatment for his head injury and professional services addressing his adjustment issues related to infidelity, lawsuit publicity and family coping strategies. Dr. Howard must have the reports regarding his progress or lack thereof to be submitted to the Board's Medical Director on a quarterly basis starting three months from the date of the Order. Dr. Howard shall engage in a part-time practice of medicine and make available every six months all his patients' charts for review by the Board's Medical Director. Dr. Howard must meet with the Board's Medical Director annually.

Dr. Edmonson made a motion to accept the proposed Modified Consent Order with corrections of ten (10) patients a day instead of a week and Dr. Eckles seconded the motion. Ms. Wells and Dr. Zanolli opposed. The motion passed by a majority vote.

Adjourned at 4:00 p.m.

September 26 and 27, 2006

227 French Landing

Panel: Brown, Cunningham, Mutter, White

9:00 a.m.

Contested Case Hearing

Curtis Buchheit, MD-Dr. Buchheit was present and represented himself. Ms. Laurie Doty represented the State. The Honorable Mary Collier, Administrative Law Judge presided.

The case is a continuation from the July 25 and 26, 2006 meeting and will be continued at the next scheduled meeting.

September 27, 2006

227 French Landing

Panel: Eckles, Beckford, Ali

9:00 a.m.

Contested Case Hearing

Janice Katz, MD-Dr. Katz was present and represented by legal counsel, Mr. C.J. Gideon. Mr. Thomas Miller represented the State. The Honorable Marion Wahl, Administrative Law Judge presided. The case is a continuation from the July 25 and 26, 2006 meeting.

The case is to be continued at the next scheduled meeting.

220 Athens Way

Panel: Zanolli, Lovelady, Wells

9:00 a.m.

Contested Case Hearing

Alton Earl Ingram, MD-Dr. Ingram was present and represented by legal counsel Mr. R. Chris Otegens. Ms. Alexa Whittemore represented the State. The Honorable Meg Robertson, Administrative Law Judge presided. Ms. Whittemore gave her opening statement. The Notice of Charges was handed to the panel for review. Dr. Ingram is charged with violating TCA 63-6-214(b) (3) and TCA 63-6-214 (b) (20). An Order of Emergency Suspension of License was filed by the Florida Board on September 12, 2002, immediately suspending Dr. Ingram's Florida license to practice medicine. The basis for the Emergency Suspension included failure to practice medicine with the degree of care, skill and treatment required for a medical professional and failure to keep adequate records of drugs administered to a patient during surgery. Following proof from both sides and closing arguments, the matter was turned over to the board for deliberations. Dr. Lovelady made a motion to accept the Finding of Facts #9 and Ms. Wells seconded the motion. The motion carried. Dr. Lovelady made a motion to accept the Finding of Facts #10 and Ms. Wells seconded the motion. The motion carried. Dr. Lovelady made a motion to accept the Finding of Facts #11, 12, 15, 16 and 18 and Ms. Wells seconded the motion. The motion carried. Dr. Lovelady made a motion to accept the Causes of Action #18 and 19 and Ms. Wells seconded the motion. The motion carried. Dr. Lovelady made a motion to revoke the medical license of Dr. Ingram and Ms. Wells seconded the motion. Dr. Lovelady withdrew his previous motion and a second was followed by Ms. Wells. Dr. Lovelady made a motion to suspend Dr. Ingram's medical license for three (3) years and probation for two (2) years thereafter. Dr. Ingram must obtain continuing medical education hours in anesthesia. Ms. Wells seconded the motion. Dr. Lovelady made an amendment that Dr. Ingram must appear before the Board before suspension can be lifted. Ms. Wells seconded the amendment. The motion carried unopposed. Dr. Zanolli made a motion to assess \$1,000 to Dr. Ingram for the 2004 incident and Dr. Lovelady seconded the motion. The motion carried. Dr. Lovelady made a motion to assess the costs of the hearing and Ms. Wells seconded the motion. The motion carried. The policy statement was read and the reason the action was taken was due to the action taken against the physician by the Florida State Board. For this reason the actions taken were to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Lovelady made a motion to accept the policy statement and Ms. Wells seconded the motion. The motion carried.

Agreed Order

Shelia J. Vaughn-Ms. Vaughn was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Agreed Order was handed to the panel for review. Ms. Vaughn does not hold a license as a medical doctor in Tennessee. Ms. Vaughn performed a procedure known as "ear stapling" which entails stapling a surgical staple in a person's ear in an attempt to target a specific "point". Ms. Vaughn ceased providing this procedure upon receiving notice that the Division asserted her conduct was illegal. The proposed Agreed Order stated that Ms. Vaughn shall immediately cease and desist in the practice of, advertising for, or otherwise performing the procedure known as ear stapling in Tennessee. Ms. Vaughn shall pay one (1) type B

civil penalty in the amount of five hundred dollars (\$500.00) and pay costs of the hearing. Dr. Lovelady made a motion to accept the proposed Agreed Order and Ms. Wells seconded the motion. The motion passed.

Alan Gardner, MD-Dr. Gardner appeared by telephone but not represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Agreed Order was handed to the panel for review. Dr. Gardner is charged with violating TCA 63-6-214 (b) (20), action in another State for actions or omissions that constitute grounds for disciplinary action in this State. Dr. Gardner's Tennessee medical license shall be suspended until his Ohio license is unencumbered. Dr. Lovelady made a motion to accept the proposed Agreed Order and Ms. Wells seconded the motion. The motion passed unopposed.

Licensure Denial Appeal

Stuart Fox, MD-Dr. Fox was present and represented by legal counsel, Mr. Frank Scanlon. Ms. Alexa Whittemore represented the State. The Honorable Meg Robertson, Administrative Law Judge presided. Dr. Fox applied for a Tennessee medical license and appeared before the full Board on May 16, 2006. Dr. Fox had several malpractice issues and his medical license in Virginia was disciplined. The Board's decision was to issue Dr. Fox an administrative license. Dr. Fox requested a licensure denial appeal hearing to appeal the Board's May 16, 2006 decision to grant him an administrative license. Mr. Scanlon and Ms. Whittemore gave their opening statements. Dr. Irwin, Department of Health supervisor to Dr. Fox was called as a witness followed by Dr. Larry Arnold, the Board's Medical Director. Dr. Fox was called as a witness also. Both attorneys gave their closing arguments. The panel deliberated. Dr. Lovelady made a motion to grant Dr. Fox a restricted license with the following conditions: three (3) years probation with an annual letter from the supervisor reporting on the performance of Dr. Fox, no obstetric or gynecological surgery in Tennessee; and (4) civil penalties in the amount of one thousand dollars (\$1,000.00) each for a total of four thousand dollars (\$4,000.00). Dr. Zanolli seconded the motion and Ms. Wells opposed. The motion passed. The Board granted a license with the conditions set forth above because of additional information provided them during the course of the hearing.

Dr. Allen S. Edmonson

Date